

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DARREN L. MILLER,)	
Plaintiff,)	
)	C.A. No. 22-926 Pittsburgh
v.)	
)	District Judge Susan Paradise Baxter
ERIC ARMEL, et al.,)	Magistrate Judge Richard A. Lanzillo
Defendants.)	

MEMORANDUM ORDER

Plaintiff Darren L. Miller, an inmate formerly incarcerated at the State Correctional Institution at Fayette in LaBelle, Pennsylvania (“SCI-Fayette”), commenced this *pro se* civil rights action on June 23, 2022, against the following staff members at SCI-Fayette: Superintendent Eric Armel (“Armel”); Corrections Health Care Administrator James Bright (“Bright”); and Corrections Officer Sheetz (“Sheetz”). Plaintiff alleges a claim of assault and battery against Defendant Sheetz, claims of retaliation against Defendants Sheetz and Armel, and an Eighth Amendment claim of deliberate indifference to serious medical needs against Defendant Bright. This matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On October 31, 2022, Defendants filed a motion to dismiss [ECF No. 24], seeking dismissal of all official capacity claims against Defendants, and dismissal of Plaintiff’s claims against Defendants Armel and Bright for their lack of personal involvement in any alleged misconduct. After Defendants’ motion was fully briefed by the parties, Judge Lanzillo issued a Report and Recommendation (“R&R”), dated March 7, 2023 [ECF No. 38], recommending that

Defendants' motion be granted in part and denied in part. Specifically, the R&R recommends that: (1) the motion be granted as to all official capacity claims for monetary damages against Defendants, and that such claims be dismissed with prejudice; (2) the motion be denied as to all official capacity claims against Defendants to the extent they seek injunctive or declaratory relief; (3) the motion be granted as to Plaintiff's retaliation claim against Defendant Armel, without prejudice and with leave to amend the complaint to restate such claim with greater specificity; and (4) the motion be denied as to Plaintiff's Eighth Amendment claim against Defendant Bright.

Plaintiff has filed timely objections to the R&R, requesting that the Court reject the Magistrate Judge's recommendation to dismiss Plaintiff's retaliation claim against Defendant Armel; however, the recommendation to dismiss this claim is without prejudice to Plaintiff's right to amend his complaint to restate the claim with greater specificity. Thus, Plaintiff's attempts to provide additional factual support for his retaliation claim are better suited for inclusion in an amended complaint, rather than in objections to the R&R.

Thus, after *de novo* review of the relevant documents in this case, together with the report and recommendation and objections thereto, the following order is entered:

AND NOW, this 26th day of May, 2023;

IT IS HEREBY ORDERED that Defendants' motion to dismiss [ECF No. 24] is GRANTED IN PART and DENIED IN PART, as follows: (1) the motion is GRANTED as to all official capacity claims for monetary damages against Defendants, and such claims are dismissed with prejudice; (2) the motion is DENIED as to all official capacity claims against Defendants to the extent they seek injunctive or declaratory relief; (3) the motion is DENIED as to Plaintiff's

Eighth Amendment claim against Defendant Bright; and (4) the motion is GRANTED as to Plaintiff's retaliation claim against Defendant Armel, without prejudice to Plaintiff's right to amend his complaint to restate such claim with greater specificity. Any such amendment must be filed by Plaintiff no later than thirty (30) days after the date of this Order. Plaintiff's failure to file an amendment within such time will result in the dismissal of Plaintiff's retaliation claim against Defendant Armel without further notice. The report and recommendation of Magistrate Judge Lanzillo, issued March 7, 2023 [ECF No. 38], is adopted as the opinion of the court.


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
United States Magistrate Judge